

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 21, 2008
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: May 9, 2008

RE: Closed Session of the Board on May 21, 2008

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. COMMERCIAL WOOD PRODUCTS CO., 05-R6D2-1643 THROUGH 1645
2. COMMERCIAL WOOD PRODUCTS CO., 05-R6D2-1653 THROUGH 1656
3. GRANITE CONSTRUCTION, 06-R5D1-4657
4. SUN WORLD INTERNATIONAL, LLC., 06-R3D7-1299 THROUGH 1302
5. SUPERIOR READY MIX CONCRETE, 06-R3D3-4759 AND 4760
6. WATSON ROOFING, INC., 07-R2D3-0491

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. AMERICAN TEXTILE SYSTEMS, 08-R3D5-0581 THROUGH 0584
2. AMERICARE AMBULANCE, 06-R4D4-3945
3. ARROYO CAR WASH CORPORATION, 08-R6D5-0252
4. AT & T SERVICES INC., 07-R1D4-0017
5. BEND PAK, INC. 06-R4D3-965 AND 966
6. BERBER FOOD MANUFACTURING INC., dba MI RANCHO TORTILLA, 05-R1D4-3250 THROUGH 3253
7. CINDER BLOCK, INC., 08-R6D5-0864
8. THE COLORES PAINTING CO. INC., 06-R1D1-4677
9. COSTCO WHOLESALE, 06-R3D2-2761
10. WILLIAM COULTER dba PELICAN ROOST CHOWDER HOUSE, 07-R2D3-2575
11. CRS FARMING, LLC., 06-R2D5-2742
12. EAST BAY ATTENTION TO DETAIL INC., 06-R1D4-4001
13. EAST BAY FLOORING, 06-R2D4-2195 AND 06-R2D4-3729
14. EASTERN LANDSCAPE COMPANY INC., 07-R1D4-4316 AND 4317
15. DUNN EDWARDS, 07-R1D4-3014
16. FOG COAT CORP. 06-R3D2-807
17. FROST CONSTRUCTION, 06-R2D3-3877
18. GF CONSTRUCTION AND MANAGEMENT, 07-R1D2-4199
19. HARVEST TIME PRODUCE, 06-R3D2-2585 AND 2586
20. H B PLASTERING 07-R3D3-4557 AND 4558

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21. THE HERRICK CORPORATION, 08-R1D3-0667 THROUGH 0669
22. THE HOME DEPOT, 07-R2D1-2799
23. HOME DEPOT # 1064, 08-R4D2-0759
24. J. C. METAL SPECIALISTS, INC., 06-R1D4-3857
25. J & J ACOUSTICS INC., 06-R1D4-2122
26. JAS & H MANAGEMENT INC., 07-R2D5-3031 THROUGH 3036
27. K. F. C. INC., 06-R4D4-4385
28. MTH CONSTRUCTION, INC., 06-R4D1-2820
29. NEW GENERATION MASONRY, 07-R4D4-2789 THROUGH 2792
30. NOR-CAL PRODUCTS, INC., 07-R2D3-1852 AND 1853
31. PRECIOUS HOME COMPANION, 07-R2D2-4222
32. QUEBECOR WORLD, INC., 06-R2D2-3509
33. SANTEE DAIRIES INC., dba HARTLAND FARMS, 07-R6D2-2793
THROUGH 2798
34. SGS RECYCLING ENTERPRISE, INC., dba, A & S METALS, 07-R1D2-2777
THROUGH 2781
35. SOUTHWESTERN COMMUNITY COLLEGE, 08-R3D2-0573
36. SPORT BOAT TRAILERS, 07-R2D4-2580
37. BILL SPRINKLE, dba BILL SPRINKLE DRYWALL, 07-R1D5-0473 and 0474
38. STONE ETC., INC., 06-R4D1-3211 AND 06-R4D1-4503
39. SUPREME HANDYMAN, 06-R4D4-4072 THROUGH 4075
40. TERMINAL MANUFACTURING CO., LLC., 07-R6D1-3994 THROUGH 3998
41. THIBIANT INTERNATIONAL, INC., 06-R4D3-4647 AND 4648
42. UNIQUE ELEVATOR INTERIORS, INC., 06-R1D4-2671 THROUGH 2673

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43. VACA VALLEY ROOFING INC. dba OLD COUNTRY ROOFING, 05-R2D2-2791 AND 2792

44. VADNAIS CORPORATION, 06-R5D2-5105

45. XKT ENGINEERING, 07-R2D2-3429

46. Z & H ASSOCIATES, INC., 07-R2D3-2577

ORDERS DISMISSING APPEALS:

NONE.

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

NONE.

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. FONTANA WOOD PRODUCTS INC., 08-R3D3-9163

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

ORDERS GRANTING APPEALS:

NONE.

STIPULATIONS:

1. HATHAWAY DINWIDDIE, 06-R1D3-1503
2. KINDER MORGAN ENERGY PARTNERS, LP., 05-R2D4-2013 AND 2014
3. ROMIC ENVIROMENTAL TECHNOLOGIES, 06-R1D4-3534 through 353
4. TRADER JOES COMPANY, 03-R1D1-5174
5. TURLOCK IRRIGATION CONSTRUCTION, 03-R2D4-1018 through 1026
6. VILLIAGE FRAMERS CORP., 06-R2D4-121 through 123

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

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1. AMERICAN ROTARY BROOM CO. , INC., 06-R6D2-2945 THROUGH 2950, 06-R6D2-2957 THROUGH 2961; 06-R6D2-3298 THROUGH 3305 AND 06-R6D2-3319 AND 3326
2. EXPO PROPANE, INC., 08-R3D5-9012
3. H. M. CONSTRUCTION, INC., 08-R3D2-9007
4. NAUTICAL ENGINEERING, INC., 06-R6D1-4868 THROUGH 4872
5. S & G PALLETS INC., 08-R3D3-9009
6. SHEA KENNY JV, 07-R5D3-3218
7. SOUTHERN CALIFORNIA EDISON, 06-R4D2-2062
8. TOTAL CONCEPTS, 08-R4D3-9016

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. G. W. HEINEKE CO., 06-R6D2-2522 AND 2533
2. DR. TIMOTHY J. ROSIO, MD dba ANEW SKIN DERMATOLOGY, 08-R2D1-9149

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. AC FRAMERS INC., 03-R2D3-3475
3. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
4. G. T. ALDERMAN, INC., 05-R4D3-3513
5. ASC PROFILES, INC., 06-R2D1-1181
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106

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8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAKOTA COMPANIES UNLIMITED, 05-05-R4D3-392 and 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DYNALECTRIC, 03-R1D1-4101
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. GENERAL TRUSS CO. INC., 06-R2D1-0783 AND 0784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. HUSSMAN CORPORATION, 03-R3D1-2939

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32. ILH CONSTRUCTION, 02-R1D1-4172
33. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
34. JOHN LAING HOMES, 04-R3D1-194 AND-195
35. KELLY SERVICES, INC., 06-R1D2-1024
36. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
37. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
38. LONG BEACH CITY COLLEGE, 03-R3D5-2747
39. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
40. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
41. O & M INDUSTRIES, 04-R1D5-1597
42. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
43. PMR RACE CARS, 03-R3D3-1825
44. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
45. RII PLASTERING INC., 02-R3D1-2679
46. R & L BROSAMER, INC., 03-R1D5-4832
47. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
48. STACY & WITBECK INC., 05-R1D1-1142
49. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
50. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
51. TEICHERT AGGREGATES, 04-R5D1-2982
52. TRIO METAL, 03-R4D4-0317
53. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557

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54. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

55. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

56. WESTERN DOOR, 01-R3D1-2827

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
5. J. F. SHEA CONSTRUCTION, INC (DOSH v. OSHAB) 34-2007-00882187-CU-WM-GDS, (02-801)
6. E. L. YEAGER CONSTRUCTION COMPANY, INC., (OSH v. OSHAB) 34-2007-00882192-CU-WM-GDS, (01-3261)
7. BRUTO CO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MURRAY COMPANY, BS112469 (07-9190/9192)
9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
10. SEQUEL CONTRACTORS CIVRS. 804265 (05-1438)

APPELLATE COURT:

NONE.

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

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NONE.

PERSONNEL: *(Issues regarding staff.)*

NONE.

Any matter not completed at this Closed Session may be continued to subsequent meetings.